

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE**

CHAPTER 7 TRUSTEE JEFFREY L. BURTCH,      )  
    )  
Plaintiff,                                    )  
    )  
v.    ) Civil Action No. 07-556 JJF-LPS  
    )  
MILBERG FACTORS, INC., et al.            )  
    )  
Defendants.                                    )  
    )

**DEFENDANT CAPITAL FACTORS, INC.'S  
MOTION TO DISMISS THE COMPLAINT**

Defendant Capital Factors, Inc. ("Capital Factors") hereby moves the Court to dismiss the Complaint pursuant to Fed. R. Civ. P. 12(b)(6) for the reasons set forth in both the *Reply Memorandum of Law in Support of Defendant The CIT Group/Commercial Services, Inc.'s Motion to Dismiss the Complaint*, filed by The CIT Group/Commercial Services, Inc. on April 2, 2008 (D.I. 53) (the "CIT reply") and *Reply Brief of Defendants GMAC Commercial Finance LLC, Sterling Factors Corporation and Wells Fargo Century, Inc. In Support of Their Motion to Dismiss*, filed by GMAC Commercial Finance LLC, Sterling Factors Corporation, and Wells Fargo Century, Inc. on April 2, 2008 (D.I. 52) (the "GMAC reply"). By express reference thereto, Capital Factors joins, adopts, and/or incorporates the CIT and GMAC replies fully herein.

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By



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*Attorneys for Defendant Capital Factors, Inc.*

Dated: April 3, 2008  
858468/32419

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**ORDER**

This \_\_\_\_\_ day of \_\_\_\_\_, 2008, the Court having  
considered Defendant Capital Factors, Inc.'s Motion to Dismiss the Complaint and the parties'  
arguments and briefing in support thereof and in opposition thereto,

**IT IS HEREBY ORDERED** that Defendant Capital Factors, Inc.'s Motion to  
Dismiss the Complaint is **GRANTED**.

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United States District Judge